

WESLEY M. MULLEN

Hon. Sarah L. Cave  
United States District Judge  
Southern District of New York  
500 Pearl Street  
New York, NY 10007

VIA CM/ECF

Re: *Krieger v. Alison Lou LLC*, No. 20 CV 2628 (JGK)

Your Honor,

I represent the Defendant in this copyright case.

I write pursuant to Paragraph 9 of the Court's Standing Order Applicable to Settlement Conferences to request an adjournment of the settlement conference set for December 2, 2020. (ECF Doc. 32 at 3 ("[C]ounsel must seek a change in the date of the conference if ... an adjournment would permit a party to obtain information that would make the conference more productive.").)

The reason for the requested adjournment is that Plaintiff's unreasonable failure to comply with the Court's settlement conference procedures make a conference at this time unproductive.

The September 28, 2020 Settlement Conference Order required Plaintiff to make a pre-conference settlement demand no later than November 18, 2020. (ECF Doc. 32 at 2.) When Plaintiff failed, Defendant "promptly remind[ed Plaintiff] of its obligation ... ." (*Id.*) On November 20, 2020, Plaintiff's counsel conveyed a purported demand five times higher than Plaintiff's last offer, and five times higher than the "detailed damages calculation" he disclosed as directed by the Court's discovery orders. (*See* ECF Doc. 31 at 3; ECF Doc. 31-2 (Pl's Sept. 10 damages calculation).)

By email dated November 20, 2020, Defendant reminded Plaintiff of his prior demands and damages disclosures and invited Plaintiff to explain how his pre-conference demand was not made in bad faith. Plaintiff has not responded. Nor has Plaintiff responded to Defendant's request for consent to this adjournment.

Defendant respectfully requests that the conference be adjourned *sine die*, subject to reinstatement once Plaintiff complies with the pre-conference demand requirement; or alternatively that the conference be re-set for a date in January not inconvenient for the Court.

Respectfully,

Wesley M. Mullen

Based on Defendant's representations regarding Plaintiff's failure to cooperate, the Settlement Conference scheduled for Wednesday, December 2, 2020 at 10:00 am is ADJOURNED sine die.

The Clerk of Court is respectfully directed to terminate the conference and to close the Motion at ECF No. 34.

SO ORDERED      11/30/2020

  
SARAH L. CAVE  
United States Magistrate Judge